

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015080197 (Primary)

CAPISTRANO UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015071204

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On July 23, 2015, Capistrano Unified School District filed a Request for Due Process Hearing in OAH case number 2015071204 (District Case), naming Student.

On July 31, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015080197 (Student Case), naming District.

On August 19, 2015, the parties filed a joint Motion to Consolidate District's Case with Student's Case, and to continue the due process hearing to the dates set in District's Case.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the District's Case and Student's Case involve a common question of law or fact, specifically, the appropriateness of District's April 21, 2015 speech and language assessment. The parties stipulated to consolidation. In addition, consolidation furthers the interests of judicial economy, because the cases involve the same parties and common exhibits and witnesses. Accordingly, consolidation is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

As this order deems Student's Case as the primary matter, and the parties wish to proceed on the dates set in District's Case, a continuance is required. Therefore, the parties' joint motion to continue the hearing demonstrates good cause for a continuance, based on the parties' stipulation and the interests of judicial economy.

ORDER

1. The parties' Motion to Consolidate is granted. Student's Case, OAH Case Number 2015080197, shall be the primary case.
2. All dates previously set in OAH Case Number 2015080197 (Student's Case) are vacated.
3. The parties' Motion to Continue is granted. The Mediation in the consolidated cases shall be held on October 13, 2015 at 9:30 a.m. The Prehearing Conference in the consolidated cases shall be held on November 16, 2015, at 10:00 a.m., and the Due Process Hearing in the consolidated cases shall be held on November 30, 2015 at 1:00 p.m., and on December 1 through 3, 2015 at 9:00 a.m., the dates presently scheduled for District's case, unless otherwise ordered by the ALJ.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2015080197 (Student's Case).

DATE: August 25, 2015

/s/

CAROLINE A. ZUK

Administrative Law Judge

Office of Administrative Hearings